

105TH CONGRESS
1ST SESSION

S. 1562

To authorize an exchange of land between the Secretary of Agriculture and
Secretary of the Interior and Big Sky Lumber Co.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 13, 1997

Mr. BAUCUS introduced the following bill; which was read twice and referred
to the Committee on Energy and Natural Resources

A BILL

To authorize an exchange of land between the Secretary
of Agriculture and Secretary of the Interior and Big
Sky Lumber Co.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION. 1. SHORT TITLE.**

4 This Act may be cited as the “Gallatin Land Consoli-
5 dation Act of 1998”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the land north of Yellowstone National Park
9 possesses outstanding natural characteristics and

1 wildlife habitats that would make the land a highly
 2 valuable addition to the National Forest System;

3 (2) it is in the interest of the United States for
 4 the Secretary of Agriculture to enter into an Option
 5 Agreement for the acquisition of land owned by Big
 6 Sky Lumber Co.; and

7 (3) it is in the interest of the United States
 8 to—

9 (A) establish a logical and effective owner-
 10 ship pattern for the Gallatin National Forest,
 11 substantially reducing long-term costs for tax-
 12 payers; and

13 (B) consolidate the Gallatin National For-
 14 est in a manner that will enable the public to
 15 have access to and enjoy the many recreational
 16 uses of the land.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) BSL.—The term “BSL” means Big Sky
 20 Lumber Co., an Oregon joint venture, and its suc-
 21 cessors and assigns, and any other entities having a
 22 property interest in the BSL land.

23 (2) BSL LAND.—The term “BSL land” means
 24 the up to approximately 55,000 acres of land owned
 25 by BSL that is to be acquired by the Secretary of

1 Agriculture, as depicted in Exhibit A to the Option
2 Agreement.

3 (3) EXCHANGE AGREEMENT.—The term “Ex-
4 change Agreement” means the agreement entered
5 into between BSL and the Secretary of Agriculture
6 under section 4(e).

7 (4) OPTION AGREEMENT.—The term “Option
8 Agreement” means the agreement dated _____
9 and entitled “Option Agreement for the Acquisition
10 of Big Sky Lumber Co. Lands Pursuant to the Gal-
11 latin Range Consolidation and Protection Act of
12 1993” and the exhibits and maps attached to the
13 agreement.

14 **SEC. 4. GALLATIN LAND CONSOLIDATION COMPLETION.**

15 (a) IN GENERAL.—If BSL offers fee title to the BSL
16 land, including mineral interests, that is acceptable to the
17 United States—

18 (1) the Secretary of Agriculture shall accept a
19 warranty deed to the BSL land;

20 (2) the Secretary of Agriculture shall convey to
21 BSL, subject to valid existing rights and to such
22 other terms, conditions, reservations, and exceptions
23 as may be agreed on by the Secretary of Agriculture
24 and BSL, fee title to up to approximately 25,000
25 acres of National Forest System land and appur-

1 tenances thereto as depicted in Exhibit B to the Op-
2 tion Agreement;

3 (3) the Secretary of Agriculture shall grant to
4 BSL timber harvest rights to up to approximately
5 50,000,000 board feet of timber in accordance with
6 subsection (c) and as described in Exhibit C to the
7 Option Agreement;

8 (4) subject to availability of funds, the Sec-
9 retary of Agriculture shall purchase land belonging
10 to BSL in the Taylor Fork area, as depicted in Ex-
11 hibit D, at a purchase price of not more than
12 \$6,500,000; and

13 (5) the Secretary of the Interior shall convey to
14 BSL, by patent or otherwise, subject to valid exist-
15 ing rights and to such other terms, conditions, res-
16 ervations, and exceptions as may be agreed to by the
17 Secretary of the Interior and BSL, fee title to ap-
18 proximately 1,860 acres of Bureau of Land Manage-
19 ment land, as depicted in Exhibit B to the Option
20 Agreement.

21 (b) VALUATION.—The property and other assets ex-
22 changed by BSL and the United States under subsection
23 (a) shall be approximately equal in value, as determined
24 by the Secretary of Agriculture.

25 (c) TIMBER HARVEST RIGHTS.—

1 (1) IN GENERAL.—The Secretary of Agriculture
2 shall prepare, grant to BSL, and administer the tim-
3 ber harvest rights identified in Exhibit C to the Op-
4 tion Agreement, over a period of 5 consecutive years
5 after the date of enactment of this Act.

6 (2) ENTIRE TIMBER SALE PROGRAM OF THE
7 GALLATIN NATIONAL FOREST.—Timber harvest vol-
8 ume shall constitute the timber sale program for the
9 Gallatin National Forest for that 5-year period.

10 (3) SUBSTITUTION.—If exceptional cir-
11 cumstances, such as natural catastrophe, changes in
12 law or policy, or extraordinary environmental or fi-
13 nancial circumstances prevent the Secretary of Agri-
14 culture from conveying the timber harvest rights
15 identified in Exhibit C to the Option Agreement, the
16 Secretary of Agriculture shall replace the value of
17 the diminished harvest rights by—

18 (A) substituting equivalent timber harvest
19 rights volume from the same market area;

20 (B) conveying national forest lands con-
21 taining merchantable timber within the Gallatin
22 National Forest; or

23 (C) making a payment from funds made
24 available to the Secretary of Agriculture out of
25 the Land and Water Conservation Fund.

1 (4) PROCEDURES.—

2 (A) IN GENERAL.—The following proce-
3 dures shall apply to all national forest timber
4 harvest rights identified for exchange under
5 subsection (a):

6 (i) IDENTIFICATION OF TIMBER.—The
7 Secretary of Agriculture shall designate
8 Federal timber, as depicted in Exhibit C to
9 the Option Agreement, for exchange to
10 BSL.

11 (ii) HARVEST SCHEDULE.—The Sec-
12 retary of Agriculture and BSL shall mutu-
13 ally develop and agree upon schedules for
14 all national forest timber to be conveyed to
15 BSL in the exchange.

16 (iii) OPEN MARKET.—All timber har-
17 vest rights granted to BSL in the exchange
18 shall be offered for sale by BSL through
19 the competitive bid process.

20 (iv) SMALL BUSINESS.—All timber
21 harvest rights granted to BSL in the ex-
22 change shall be subject to compliance by
23 BSL with Forest Service small business
24 program procedures in effect as of the date
25 of enactment of this Act, including con-

tractual provisions for payment schedules,
harvest schedules, and bonds.

(v) COMPLIANCE WITH OPTION AND
EXCHANGE AGREEMENTS.—All timber har-
vest rights granted to BSL in the exchange
and all timber harvested under the ex-
change shall comply with the terms of the
Option Agreement and the Exchange
Agreement.

(B) BINDING EFFECT.—The procedures
under subparagraph (A) shall be binding on
BSL and its assigns, contractors, and succes-
sors in interest.

(d) EXCHANGE AGREEMENT.—

(1) IN GENERAL.—The Secretary of Agriculture
shall offer to enter into an Exchange Agreement
with BSL that—

(A) describes the non-Federal and Federal
land and interests in lands to be exchanged;

(B) identifies the terms, conditions, res-
ervations, exceptions, and rights-of-way convey-
ances; and

(C) describes the terms for the harvest
rights of timber granted under subsection
(a)(3).

1 (2) CONSISTENCY.—The Exchange Agreement
2 shall be consistent with this Act and the Option
3 Agreement.

4 (3) SUBMISSION TO CONGRESS.—

5 (A) IN GENERAL.—On completion of the
6 Exchange Agreement, the Secretary of Agri-
7 culture shall submit the Exchange Agreement
8 to the Committee on Energy and Natural Re-
9 sources of the Senate, the Committee on Re-
10 sources of the House of Representatives, and
11 each member of the Montana congressional del-
12 egation; and

13 (B) DELAYED EFFECTIVENESS.—The Ex-
14 change Agreement shall not take effect until 30
15 days after the date on which the Exchange
16 Agreement is submitted in accordance with sub-
17 paragraph (A).

18 (e) RIGHTS-OF-WAY.—As part of the exchange under
19 subsection (a)—

20 (1) the Secretary of Agriculture, under the au-
21 thority of the Federal Land Policy and Management
22 Act of 1976 (43 U.S.C. 1701 et seq.), shall convey
23 to BSL such easements in or other rights-of-way
24 over National Forest System land as may be agreed

1 to by the Secretary of Agriculture and BSL in the
 2 Exchange Agreement; and

3 (2) BSL shall convey to the United States such
 4 easements in or rights-of-way over land owned by
 5 BSL as may be agreed to by the Secretary of Agri-
 6 culture and BSL in the Exchange Agreement.

7 (f) QUALITY OF TITLE.—

8 (1) DETERMINATION.—The Secretary of Agri-
 9 culture shall review the title for the BSL land de-
 10 scribed in subsection (a) and, within 60 days after
 11 receipt of all applicable title documents from BSL,
 12 determine whether—

13 (A) the applicable title standards for Fed-
 14 eral land acquisition have been satisfied or the
 15 quality of the title is otherwise acceptable to the
 16 Secretary of Agriculture;

17 (B) all draft conveyances and closing docu-
 18 ments have been received and approved;

19 (C) a current title commitment verifying
 20 compliance with applicable title standards has
 21 been issued to the Secretary of Agriculture; and

22 (D) except as provided in section 8(b) (i)-
 23 (iii) of the Gallatin Range Consolidation and
 24 Protection Act of 1993 (107 Stat. 992), the
 25 title includes both the surface and subsurface

1 estates without reservation or exception (except
2 by the United States or the State of Montana,
3 by patent) including—

4 (i) minerals, mineral rights, and min-
5 eral interests;

6 (ii) timber, timber rights, and timber
7 interests;

8 (iii) water, water rights, and ditch
9 conveyances; and

10 (iv) any other interest in the property.

11 (2) CONVEYANCE OF TITLE.—If the quality of
12 title does not meet Federal standards or is otherwise
13 determined to be unacceptable to the Secretary of
14 Agriculture, the Secretary of Agriculture shall advise
15 BSL regarding corrective actions necessary to make
16 an affirmative determination under subparagraph
17 (1).

18 (g) TIMING OF IMPLEMENTATION.—

19 (1) EXCHANGE AGREEMENT.—The Exchange
20 Agreement shall be completed and executed not later
21 than 60 days after the date of enactment of this
22 Act.

23 (2) LAND-FOR-LAND EXCHANGE.—The Sec-
24 retary of Agriculture shall accept the conveyance of
25 land described in subsection (a) not later than 60

1 days after the Secretary of Agriculture has entered
2 into the Exchange Agreement and made an affirma-
3 tive determination of quality of title.

4 (3) LAND-FOR-TIMBER EXCHANGE.—The Sec-
5 retary of Agriculture shall make the timber harvest
6 rights described in subsection (a)(3) available over 5
7 consecutive years following the date of enactment of
8 this Act. Specific procedures for execution of the
9 harvest rights shall be specified in the Exchange
10 Agreement.

11 (4) PURCHASE.—The Secretary of Agriculture
12 shall complete the purchase of BSL land under sub-
13 section (a)(4) not later than 60 days after the date
14 on which appropriated funds are made available and
15 an affirmative determination of quality of title is
16 made with respect to the BSL land.

17 **SEC. 5. GENERAL PROVISIONS.**

18 (a) MINOR CORRECTIONS.—

19 (1) IN GENERAL.—The Option Agreement and
20 the Exchange Agreement shall be subject to such
21 minor corrections as may be agreed to by the Sec-
22 retary of Agriculture and BSL.

23 (2) NOTIFICATION.—The Secretary of Agri-
24 culture shall notify the Committee on Energy and
25 Natural Resources of the Senate, the Committee on

1 Resources of the House of Representatives, and each
2 member of the Montana congressional delegation of
3 any changes made pursuant to this subsection.

4 (b) PUBLIC AVAILABILITY.—The Option Agreement
5 and Exchange Agreement shall be filed with the county
6 clerks for Gallatin County, Park County, Madison County,
7 and Granite County, Montana, and shall be on file and
8 available for public inspection in the appropriate offices
9 of the Forest Service.

10 (c) STATUS OF LAND.—All land conveyed to the
11 United States under this Act shall be added to and admin-
12 istered as part of the Gallatin National Forest and
13 Deerlodge National Forest, as appropriate, in accordance
14 with the Act of March 1, 1911 (commonly known as the
15 “Weeks Act”) (36 Stat. 961, chapter 186), and other laws
16 (including regulations) pertaining to the National Forest
17 System.

18 (d) IMPLEMENTATION.—The Secretary of Agri-
19 culture shall ensure that sufficient funds are made avail-
20 able to the Gallatin National Forest to carry out this Act.

○